

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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DAMION HARRISON,

Petitioner,

-v.-

Civil Action No.  
9:07-cv-178 (GLS/RFT)

PAUL KIKENDALL

Respondent.

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APPEARANCES:

OF COUNSEL:

**FOR THE PETITIONER:**

DAMION HARRISON  
Petitioner, *Pro Se*  
Otisville Correctional Facility  
Box 8  
Otisville, New York 10963

**FOR THE RESPONDENT:**

HON. ANDREW M. CUOMO  
Attorney General for the State  
of New York  
Attorney for Respondent  
120 Broadway  
New York, New York 10271

JODI A. DANZIG, ESQ.  
Assistant Attorney General

GARY L. SHARPE,  
U.S. DISTRICT JUDGE

**ORDER**

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge Randolph F. Treece, duly filed May 7, 2009. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge Randolph F. Treece filed May 7, 2009 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that the Petition for a Writ of *Habeas Corpus* (Dkt. No. 1) is DENIED, and it is further

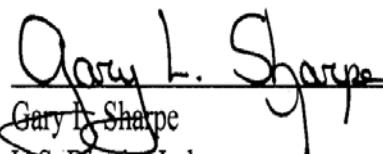
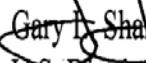
ORDERED, that because the Court finds Petitioner has not made a "substantial showing of the denial of a constitutional right" pursuant to 28 U.S.C. § 2253(c)(2), no certificate of appealability should issue with respect to any of Petitioner's claims. See 28 U.S.C. § 2253(c)(2) ("A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right."); see also *Lucidore v. New York State Div. of Parole*, 209 F. 3d 107, 112 (2d Cir. 2000) cert. denied 531 U.S. 873 (2000), and it is further

ORDERED, that the Clerk of the Court is directed to close this case,  
and it is further

ORDERED, that the Clerk of the court serve a copy of this order upon  
the parties in accordance with this court's local rules.

IT IS SO ORDERED.

Dated: May 29, 2009  
Albany, New York

  
  
Gary L. Sharpe  
U.S. District Judge